

EDWARD D. FAGAN ESQ.

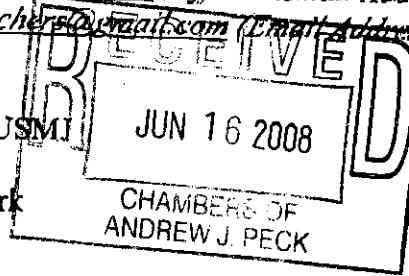
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Via Hand Delivery

Honorable Andrew J. Peck, USMJ
United States District Court
Southern District of New York
500 Pearl Street, Chambers
New York, NY 10007



June 16, 2008
USDC SDNY
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DATE FILED: 6/16/08

Re: Teachers4Action et al v. Bloomberg et al, 08-cv-548 (VM)(AJP)

Honorable Judge Peck:

I write to inform the Court of a recent development that Plaintiffs respectfully submit bear upon the present procedural and discovery posture of the case. Allow me to explain.

Last Friday June 13, 2008, the Hon. Jed S. Rakoff USDJ issued a Memorandum Order in *Shapiro et al v New York City Board of Education 06-cv-1836 (JSR)* ("The Shapiro Case"). ¹ A courtesy copy is being submitted with the hard copy of this letter and it is already been docketed.

Plaintiffs submit that in light of Judge Rakoff's June 13th decision in *The Shapiro Case*, the doctrine of Collateral Estoppel should apply to certain of Plaintiffs' claims, as well as to certain defenses that Defendant New York City Board of Education (defendant in both cases) may wish to advance, in the case before Your Honor. For ease of reference, the issues as to which Plaintiffs' submit Collateral Estoppel should apply – at this procedural stage – relate to claims and defenses related to "hostile work environment" created by the transfers of Plaintiffs to the Temporary Reassignment Centers a/ka/ Rubber Rooms and the 3020a disciplinary proceedings, which were considered and ruled upon by Judge Rakoff in *The Shapiro Case*. *

Plaintiffs also submit that Judge Rakoff's decision in *The Shapiro Case* bears upon the discovery posture in the instant case. In light of Judge Rakoff's decision, Plaintiffs submit the Court should consider lifting the stay of discovery, either in whole or in part, so the parties can gather the information and additional evidence that needs to be provided to Your Honor and/or Judge Marrero, so Plaintiffs' and Defendants' dispositive Motions can be properly considered.

In view of the foregoing, Plaintiffs urge the Court to convene the parties for a Status Conference at the Court's earliest convenience. As always, thank you for Your Honor's continued consideration in this regard.

Respectfully submitted,

Edward D. Fagan
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EDF/lst

Cc: Blanche Greenfield Esq. – For NYC Defendants- Fax (212) 788-8877

Charles Moerdler Esq. – For Defendants UFT, Weingarten & Combier – Fax (212) 806-6006

MEMO ENDORSED

Requests DENIED. TH for an effort
I will not touch on this day
by 7/1/08 summary of the case

ORDERED
Hon. Andrew Jay Peck
United States Magistrate Judge

¹ The Court should note that two plaintiffs in the instant action were also named in *The Shapiro Case* and therefore Plaintiffs will need to address this fact and if possible, sever those claims from the instant actions.

* Attached Shapiro Case - 31 p. (highlighted)

BY FAX

Amfor: AL Gurd
JP Marrero

FAX TRANSMITTAL SHEET



**ANDREW J. PECK
UNITED STATES MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT**

Southern District of New York
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Dated: June 16, 2008

Total Number of Pages: 2

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MEMO ENDORSED 6/16/08

Requests DENIED. The facts are different and all Judge Rakoff did was deny Dep't of Ed's summary judgment motions.

Copy to: Judge Victor Marrero